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OFFICE OF PETITIONS

In re Application of :
Lloyd G. Mitchell, et al. :
Application No. 09/756,095 :
Filed: January 8, 2001 :
Attorney Docket No. A31304-B-A-A072874.0134 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on June 4, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the \$490 extension of time submitted with the petition on November 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 02-4377 as authorized.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 37 CFR 1.137(b) has been made of record and small entity status has been accorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1636 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy